

# Public Document Pack



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Ask for Democratic Services

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To: Members of Cabinet

Wednesday, 29 March 2023

Dear Councillor,

Please attend a meeting of the **Cabinet** to be held at **2.00 pm** on **Thursday, 6 April 2023** in Committee Room 1, County Hall, Matlock, the agenda for which is set out below.

Yours faithfully

A handwritten signature in black ink that reads 'Helen E. Barrington'.

**Helen Barrington**

**Director of Legal and Democratic Services**

## **A G E N D A**

1. To receive apologies for absence
2. To receive declarations of interest (if any)
3. To consider Minority Group Leader questions (if any)

Minority Group Leaders in attendance at the meeting are able to ask a question on a report on the agenda. Any questions should be provided in writing by 12 noon at least 2 working days before the meeting.

4. To approve, as a correct record, the non-exempt minutes of the meeting held on 16 March 2023 (Pages 1 - 8)
5. Civil Parking Enforcement – Write-Off Policy (Pages 9 - 18)
6. Regeneration Pipeline Programme (Pages 19 - 28)
7. Investment in Active Partners Trust (Pages 29 - 36)
8. Childrens Services Capital Allocations - S106 (Pages 37 - 46)
9. Care Home Fee Proposals 2023 -24 (Pages 47 - 64)
10. Home Care and Day Care Fee Proposals for 2023-24 (Pages 65 - 80)
11. Exclusion of the Public

To move “That under Regulation 4 (2)(b) of the Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012, the public be excluded from the meeting for the following items of business on the grounds that in view of the nature of the items of business, that if members of the public were present, exempt information as defined in Paragraphs 4 and 7 of Part 1 of Schedule 12A to the Local Government Act 1972 would be disclosed to them.”

## **PART II - EXEMPT ITEMS**

12. To approve, as a correct record, the exempt minutes of the meeting held on 16 March 2023 (Pages 81 - 82)
13. Supplemental Substance Misuse Treatment and Recovery Grant (Pages 83 - 90)

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**MINUTES** of a meeting of **CABINET** held on Thursday, 16 March 2023 in Committee Room 1, County Hall, Matlock.

## **PRESENT**

Councillor B Lewis (in the Chair)

Councillors A Dale, C Hart, N Hoy, T King, J Patten, K S Athwal and C Renwick.

Apologies for absence were submitted for Councillor S Spencer.

Officers present: Emma Alexander (Managing Director), Carol Cammiss (Executive Director - Children's Services), Alec Dubberley (Head of Democratic and Registration Services), Ellie Houlston (Director Of Public Health), Joe O'Sullivan (Executive Director - Corporate Services and Transformation), Paul Stone (Interim Director of Finance and ICT), Chris Henning (Executive Director - Place), Jane Lakin (Assistant Director of Legal Services) and Simon Stevens (Director Of Adult Social Care and Health).

### **39/23     TO RECEIVE DECLARATIONS OF INTEREST (IF ANY)**

None.

### **40/23     TO CONSIDER MINORITY GROUP LEADER QUESTIONS (IF ANY)**

None.

### **41/23     TO APPROVE, AS A CORRECT RECORD, THE NON-EXEMPT MINUTES OF THE MEETING HELD ON 23 FEBRUARY 2023**

**RESOLVED:**

To approve, as a correct record, the minutes of the meeting held on 23 February 2023.

### **42/23     PERFORMANCE MONITORING AND BUDGET MONITORING/FORECAST OUTTURN 2022-23 AS AT QUARTER 3 (31 DECEMBER 2022)**

Councillor B Lewis introduced a report, which had been circulated in advance of the meeting, that provided an update of Council Plan performance and the Revenue Budget/Forecast outturn for 2022-23 as at 31 December 2022 (Quarter 3).

**RESOLVED: to**

- 1) Note and agree the update of Council Plan performance and the Revenue Budget position/forecast outturn for 2022-23 as at 31 December 2022 (Quarter 3);
- 2) Note the position on General and Earmarked Reserves;
- 3) Approve that an earmarked reserve be established to be used to carry out the activities set out in the Homes for Ukraine guidance and to contribute to this reserve any un-ringfenced “tariff grant” received for the Homes for Ukraine scheme; and
- 4) Approve the contribution of £3.155m Business Rates Relief Reconciliation 2021-22 Section 31 Grant income to the Business Rates Risks earmarked reserve.

**43/23      CAPITAL BUDGET MONITORING AND FORECAST AS AT  
QUARTER 3 2022 -23**

Councillor B Lewis introduced a report, which had been circulated in advance of the meeting, that informed Cabinet of the latest Capital budget monitoring position as at 31 December 2022.

**RESOLVED:**

To note the current position on the monitoring of Capital schemes.

**44/23      COUNCIL PLAN AND SERVICE PLAN REFRESH 2023-24**

Councillor B Lewis introduced a report, which had been circulated in advance of the meeting, that sought approval of the authority’s Council Plan Refresh 2023-25 and Departmental Service Plans Refresh 2023-25 for referral to Full Council for approval.

**RESOLVED: to agree**

- 1) the authority’s refreshed Council Plan 2023-25 and recommend the Plan to Full Council for approval;
- 2) the authority’s refreshed Council Plan Delivery Plan 2023-24 and recommend the Delivery Plan to Full Council for approval; and
- 3) the authority’s refreshed Departmental Service Plans 2023-25 and recommend them to Full Council for approval.

**45/23     CARE HOME FEE PROPOSALS 2023 -24**

This item was withdrawn.

**46/23     HOME CARE AND DAY CARE FEE PROPOSALS FOR 2023-24**

This item was withdrawn.

**47/23     EARLY YEARS BLOCK FUNDING SETTLEMENT 2023-24**

Councillor A Dale introduced a report, which had been circulated in advance of the meeting, informing Cabinet of the Early Years settlement of the Dedicated Schools Grant (DSG) and the related decisions of the Schools Forum, and seeking approval to the Early Years funding formula for 2023-24.

**RESOLVED:** to

- 1) Note the national Early years funding rates for 2023-24;
- 2) Note the changes in the Teachers Pay Grant and Teachers Pension Employer Contributions funding arrangements and funding rates for 2023-24;
- 3) Approve the changes to the Early Years Single Funding Formula allocations for 2023-24 as set out in section 4.2 of the report; and
- 4) Note the central Early years budgets approved by the Schools Forum.

**48/23     HIGH NEEDS BLOCK FUNDING SETTLEMENT 2023-24**

Councillor A Dale introduced a report, which had been circulated in advance of the meeting, informing Cabinet of the High needs Block settlement of the Dedicated Schools Grant (DSG) and seeking approval to its allocation for 2023-24.

**RESOLVED:** to

- 1) Note the high needs settlement for 2023-24;
- 2) Approve the places commissioned in Appendix three of the report;
- 3) Approve the increase to special school, support centre and ER Element 3 profiles in top ups as set out in section 4.2, Appendix

four of the report;

- 4) Approve the central high needs budgets in Appendix five of the report; and
- 5) Agree to accept the Forum's request to de-delegate funds for the functions listed in section 4.6 of the report.

## **49/23      SUSTAINABLE TRAVEL PROGRAMME UPDATE**

Councillor C Renwick introduced a report, which had been circulated in advance of the meeting, that provided a progress update on the delivery of the key cycle network and that sought approval for the proposed forward plan of activities as set out in Section four of the report, including a series of community engagement exercises.

Additionally, approval was sought to accept the Active Travel Capability and Ambition Fund Grant 2022 of £285,069 to undertake further feasibility and business case development for sustainable travel opportunities and note the submission of a bid to the Active Travel Fund Tranche 4 to support a forward programme of work.

Finally, approval was sought to delegate authority to the Executive Director of Place, in consultation with the Cabinet Member for Infrastructure and Environment to modify the key cycle network delivery programme as required, providing it remains consistent with the Council's priorities and aspirations for sustainable travel.

### **RESOLVED: to**

- 1) Note the significant progress that has been made in delivering the Key Cycle Network across Derbyshire;
- 2) Approve the proposed forward plan of activities as set out in section four of the report, including a series of community engagement exercises, subject to all planned funding being confirmed;
- 3) Approve to accept the Active Travel Capability and Ambition Fund Grant 2022 of £285,069 to undertake further feasibility and business case development for sustainable travel opportunities;
- 4) Note the submission of a bid to the Active Travel Fund Tranche 4 which has been developed in consultation with the Executive Director of Place, in consultation with the Cabinet Member for Infrastructure and Environment; and

- 5) Delegate authority to the Executive Director of Place, in consultation with the Cabinet Member for Infrastructure and Environment to modify the planned Key Cycle Network delivery programme as required, providing it remains consistent with the Council's priorities and aspirations for sustainable travel.

**50/23      RESERVE ACCOUNT FOR HIGHWAY DRAINAGE**

Councillor K S Athwal introduced a report, which had been circulated in advance of the meeting, that sought approval to set up a reserve for Highways Drainage and approve the transfer of unspent Revenue Pressures given for Highway Drainage in the 2022-23 Budget setting process.

**RESOLVED: to**

- 1) Approve the setting up of a Reserve for Highways Drainage; and
- 2) Approve the transfer of any unspent Revenue Pressures from 2022-23 given for Highway Drainage into this reserve.

**51/23      LOW EMISSIONS VEHICLES INFRASTRUCTURE PROGRAMME UPDATE**

Councillor C Renwick introduced a report, which had been circulated in advance of the meeting, updating on progress in the delivery of the Council's low Emission Vehicle Strategy and sought approval of further proposals to deliver a comprehensive network of public charge points, including approval to launch a community engagement exercise, approval of the strategic approach to charge point delivery and approval of the proposed procurement approach. This report also notes that the Council will explore future funding opportunities and that monitoring, and evaluation reports will be submitted for member consultation at key stages in the process.

**RESOLVED to:**

- 1) Note the progress made on implementing the Low Emissions Vehicles Infrastructure Strategy as set in paragraph 4.7 of the report;
- 2) Approve the launch of an online community engagement exercise to create a robust evidence base and more clearly define where resident, business and visitor demand for public charge points exist;

- 3) Approve the proposed strategic approach to creating and delivering a comprehensive network of electric vehicle charge points across the County as set out in the report;
- 4) Delegate to the Executive Director of Place, in association with the Cabinet Member for Infrastructure and Environment, the authority to amend or modify the strategic approach to charge point delivery as required, if it remains consistent with the Council's approved Low Emissions Vehicles Infrastructure implementation;
- 5) Approve the framework procurement approach that utilises Oxford City Council Dynamic Purchasing System (DPS) framework, as set out in 4.21 of the report;
- 6) Note that further monitoring and evaluation reports will be submitted for member consideration for this stage of work prior to commencing the next phase of the Low Emissions Vehicles Infrastructure implementation; and
- 7) Note that the Council will explore opportunities and submit bids where applicable for further grant funding through the Office for Zero Emission Vehicle and Low Emissions Vehicles Infrastructure fund.

**52/23      CONTAIN OUTBREAK MANAGEMENT FUND FINANCE PLAN**

Councillor C Hart introduced a report, which had been circulated in advance of the meeting, that sought approval for elements of the Contain Outbreak Management Fund grant expenditure plan, totalling £6.118m for 2022-23 and £2.540m for 2023-24.

**RESOLVED:**

To approve the grant expenditure plan for the Contain Outbreak Management Fund for 2022-23 and 2023-24 as set out in Appendix two of the report.

**53/23      EXCLUSION OF THE PUBLIC**

**RESOLVED:**

That under Regulation 4(2)(b) of the Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012, the public are excluded from the meeting for the remaining business on the grounds that in view of the nature of the items



of business, that if members of the public were present, exempt information as defined in Paragraph 4 of Part 1 of Schedule 12A of the Local Government Act 1972 would be disclosed to them.

**54/23     TO APPROVE, AS A CORRECT RECORD, THE EXEMPT MINUTES OF THE MEETING HELD ON 23 FEBRUARY 2023**

**RESOLVED:**

To approve, as a correct record, the exempt minutes of the meeting held on 23 February 2023.

**55/23     MITIGATING THE IMPACT OF COST PRESSURES WITHIN COMMISSIONED MANDATED PUBLIC HEALTH SERVICES**

Councillor C Hart introduced a not for publication report, which had been circulated in advance of the meeting, which asked Cabinet to approve the allocation of funding to mitigate the impact of cost pressures within commissioned mandated public health services.

**RESOLVED:**

To approve the recommendations as detailed in the not for publication report.

The meeting finished at 3.27 pm

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**FOR PUBLICATION**

**DERBYSHIRE COUNTY COUNCIL**

**CABINET**

**6 April 2023**

**Joint Report of the Executive Director - Place and the Director of Finance and ICT**

**Civil Parking Enforcement – Write-Off Policy**  
(Cabinet Member for Highways, Assets and Transport)

**1. Divisions Affected**

1.1 County-wide.

**2. Key Decision**

2.1 This is not a Key Decision.

**3. Purpose**

3.1 To seek Cabinet approval of the Civil Parking Enforcement Penalty Charge Notice Write-Off Policy. This Policy will provide a consistent and structured approach for unpaid parking charges to be written off. A review of the Policy will be undertaken biennially, as a minimum.

**4. Information and Analysis**

4.1 Derbyshire County Council is responsible for on-street parking across Derbyshire, with Civil Enforcement Officers responsible for the issuing of Penalty Charge Notices (PCN) in accordance with the Traffic Management Act 2004, Part 6. The Civil Enforcement of Parking Contraventions (England) General Regulations 2007 govern the processing of a PCN. Where the appeals process has reached the stage where a warrant has been issued by the County Court, for the

recovery of goods, and the PCN remains unpaid then the PCN is regarded as a debt. Should one or more of the following criteria be met, the PCN is classed as a write off, i.e the debt is uncollectable:

- When the warrant has fully expired i.e., 12 months after the warrant has been issued and payment is still outstanding
- When the debtor has deceased and evidence provided via Tell Us Once or a copy of a death certificate
- Where the debtor has provided evidence they are in prison and they will remain so until the remaining duration of the warrant
- Where evidence has been received that the debtor would be regarded as vulnerable and that this has been independently confirmed with medical information or Citizens Advice Bureau intervention. Vulnerable cases should be referred to a senior member of staff to determine
- Where the debtor is confirmed as insolvent and will remain so for the duration of the warrant.

4.2 Following approval of the draft Policy, all PCNs that meet with one of the above criteria can be written off in conjunction with the revised Scheme of Delegation.

4.3 The PCN data held contains personal information, for example registered keeper details. In line with Data Protection, this data should not be held for more than six years.

## **5. Consultation**

5.1 The Write-Off Policy has been reviewed by the Assistant Director of Finance (Audit).

## **6. Alternative Options Considered**

6.1 That the uncollectable debt remains within the system and may result in a data retention issue. All data within the system should remain for no more than six years.

## **7. Implications**

7.1 Appendix 1 sets out the relevant implications considered in the preparation of the report.

## **8. Background Papers**

8.1 None identified.

## **9. Appendices**

9.1 Appendix 1 – Implications.

9.2 Appendix 2 – Civil Parking Enforcement – Write-Off Policy.

## **10. Recommendation**

That Cabinet:

- a) Approves the Civil Parking Enforcement Penalty Charge Notice Write-Off Policy, to put in place a Policy for unpaid parking charges to be written off.

## **11. Reason for Recommendation**

11.1 The current data retention Policy states that all PCN detail is removed from the system after six years from the date of closure in line with the Council's Financial Regulations.

## **12. Is it necessary to waive the call in period?**

12.1 No.

Report Author: Suzanne Cross

Contact details: Suzanne.Cross@derbyshire.gov.uk

**Implications**

**Financial**

- 1.1 The debt remains uncollectable and remains in the system in breach of data retention.

**Legal**

- 2.1 None.

**Human Resources**

- 3.1 None.

**Information Technology**

- 4.1 None.

**Equalities Impact**

- 5.1 Not applicable.

**Corporate objectives and priorities for change**

- 6.1 None.

**Other (for example, Health and Safety, Environmental Sustainability, Property and Asset Management, Risk Management and Safeguarding)**

- 7.1 None.

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# CIVIL PARKING ENFORCEMENT PENALTY CHARGE NOTICE WRITE-OFF POLICY

January 2023

CONTROLLED

If this document is printed or copied it must be treated as an uncontrolled version as it will only be correct at the dates published in the document when it was printed or copied.

## Document Information

Title Civil Parking Enforcement Penalty Charge Notice Write Offs Policy

Author: Bronwen Terry/Suzanne Cross

Reviewed: Paul Jameson

## Document Issue Status

### Table of Amendments

| NO | APPROVAL DATE | SECTION | DETAILS     | AUTHOR |
|----|---------------|---------|-------------|--------|
| 1  | 2023          | All     | First Issue | BT/SC  |



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## Introduction

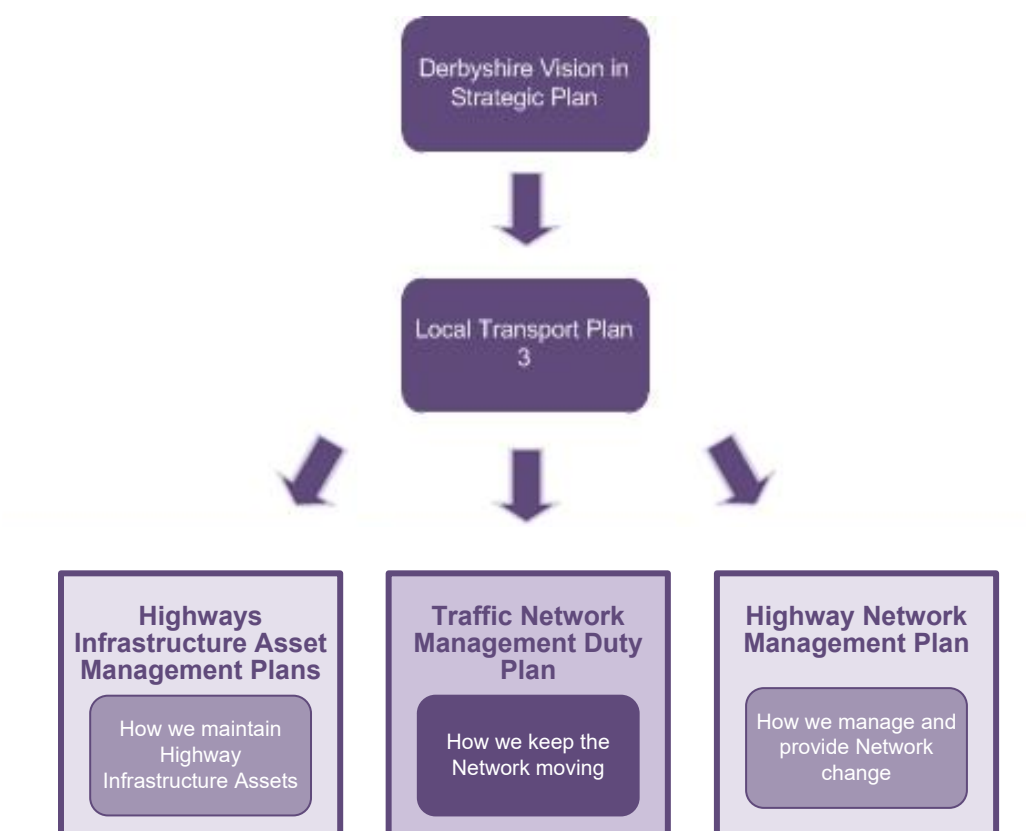
Derbyshire County Council is responsible for on-street parking across Derbyshire. This policy aims to outline action to be taken if a civil parking Penalty Charge Notice is to be written-off. A Penalty Charge Notice (PCN) is regarded as a debt once a valid warrant has been issued. If a late witness statement is accepted by either the County Council's Central Processing Unit or the County Council via an N244 (an application made to a court to request that an enforcement process is set aside) the warrant is then cancelled and the PCN is taken back to the Notice to Owner stage of the appeals process.

## Plans and Policies

This policy is related to the Traffic Network Management Duty Plan which explains how Derbyshire County Council manages Civil Parking.

The following figure shows this policy's context with other key documents in how the network is managed, maintained and changed:

*Diagram 1: Plans and Policies Framework*



This policy is an internal document and will be reviewed biennially as a minimum.

### When can a PCN be written off?

The debt will be actioned as a write-off in the following circumstances:

- When the warrant has fully expired i.e., 12 months after the warrant has been issued and payment is still outstanding
- When the debtor has deceased and evidence provided via Tell Us Once or a copy of a death certificate
- Where the debtor has provided evidence they are in prison and they will remain so until the remaining duration of the warrant
- Where evidence has been received that the debtor would be regarded as vulnerable and that this has been independently confirmed with medical information or Citizens Advice Bureau intervention. Vulnerable cases should be referred to a senior member of staff to determine
- Where the debtor is confirmed as insolvent and will remain so for the duration of the warrant. Evidence to prove insolvency will be obtained by the Bailiff company carrying out the enforcement.

For the avoidance of doubt, cases returned from the bailiffs as 'No Trace' should not be written-off. These will initially be recycled to other bailiff companies and/or checked against Experian periodically. Cases returned as 'No Trace' can only be considered for write-off once the warrant has expired

Amendments to the Civil Parking Enforcement Penalty Charging Notice Write-off Policy cannot be made without approval from a Senior Officer.





**FOR PUBLICATION**

**DERBYSHIRE COUNTY COUNCIL**

**CABINET**

**6 April 2023**

**Report of the Executive Director - Place**

**Regeneration Pipeline Programme – Chesterfield-Staveley Regeneration Route**

(Cabinet Member for Infrastructure and Environment)

**1. Divisions Affected**

1.1 Staveley North and Whittington and Brimington.

**2. Key Decision**

2.1 This is a key decision because it is likely to result in the Council incurring expenditure which is, or savings which are, significant having regard to the budget for the service or function concerned (this is currently defined as £500,000) and/or it is likely to be significant in terms of its effect on communities living or working in an area comprising two or more electoral areas in the County.

**3. Purpose**

3.1 To update Cabinet on progress and next steps for preparation of the Chesterfield-Staveley Regeneration Route (CSRR); to seek approval to the carrying out of consultation, to note the provision of further financial resources to enable work to continue; to seek approval in principle to the acceptance of grant funding.

#### **4. Information and Analysis**

- 4.1 The CSRR constitutes the single, largest project within the Council's Regeneration Pipeline (part of the Growth Zone North Programme), creating a highway link of 6km that will parallel the A619 between Tapton and Staveley and open up to the east of Chesterfield along the 'Staveley Corridor' and support the delivery of up to 1,800 homes and 3,400 jobs.
- 4.2 The scheme has a provisional grant allocation through the Government's Large Local Majors (LLM) element of the Roads Investment Strategy (RIS) programme which is managed by the Department for Transport (DfT). Currently, the scheme is at a preparatory stage – Outline Business Case (OBC) - and is targeted for construction between 2025 and 2027. Derbyshire County Council (DCC) is the scheme sponsor on behalf of DfT, working closely with Chesterfield Borough Council (CBC) as a committed delivery partner.
- 4.3 Ahead of construction, the scheme requires planning consent - for which preparatory work is underway - and land assembly, for which Cabinet approvals will be sought in due course. All affected landowners are already engaged in the preparation process through matters such as access to land for surveys, but no negotiations have yet commenced over land acquisition.
- 4.4 The project has strong governance in place which reflects the partnership nature of delivery. In addition to focused working groups involving officers from DCC and CBC framed around key themes/issues, the governance arrangements are:
- The Project Control Board - meets weekly, is chaired by DCC and attended by all key professional officers from both the County and Borough/District councils, supported by external project management and contractor input both directly and through various working groups. This informs the provision of updates to the Regeneration Programme Assurance Board.
  - The elected member Programme Board – is strategic and advisory. It meets bi-monthly and comprises senior officers and DCC portfolio holders.
  - The Joint Growth Board – meets every two months and is attended by the Leaders, portfolio holders and senior officers of both the County and Chesterfield Borough councils to address the key relationship and delivery issues across an agreed programme of projects, including the CSRR.

- 4.5 It is considered that the current governance arrangements provide senior officers and portfolio holders with sufficient oversight of the various workstreams to ensure that the project remains on track for successful delivery or to quickly identify and address issues during the lifespan of the project.

#### **Current Position and Next Steps**

- 4.6 Cabinet last considered the project at its meeting of 8 December 2022 and agreed to:
- a) Note the update and issues set out in the report and in its Appendices 1 and 2.
  - b) Approve delegated authority to the Executive Director – Place, in consultation with the Cabinet Portfolio Holder, Infrastructure and Environment and Section 151 Officer to undertake final amendments to the draft OBC, prior to submission.
  - c) Approve to submit the OBC to Government for access to grant funding.
  - d) Approve the release of £2 million capital receipts, as allocated to the project in June 2022, to fund the next stages of project preparation work.
  - e) Authorise officers to commence work on collaboration agreements with public and private sector partners over project funding and risk.
- 4.7 A key action to note relating to the above is that the formal submission of the OBC to Government took place during January 2023. At the time of drafting this report to Cabinet, limited feedback had been received from DfT, with a full response from Government expected from April onwards.
- 4.8 Other work on preparation of the project continues, in particular on scheme design and preparation of a planning application. Both of these relate to one of the two matters requiring decisions of Cabinet at this meeting.

#### **Public Engagement**

- 4.9 Cabinet has previously given its approval to carrying out consultation on the project. This took place during March and April 2022 and was held using an online, virtual town hall approach with printed material also available to those households without access to the internet. A total of 17,500 letters and leaflets were distributed along the length of the corridor to make residents and businesses aware of the scheme. In addition, the consultation was supported by traditional media (Derbyshire Times) and social media (DCC, CBC and Derbyshire Times Twitter and Facebook accounts) postings.

4.10 In total, 377 responses were received to the public consultation exercise, with 60% of responses supporting the building of the regeneration route. For those that did not support the scheme, or those that were seeking changes to the scheme, the themes most strongly raised in the responses include:

- Concern at impact to the Chesterfield Canal/associated wildlife/green corridor.
- Preference to extend the route to bypass Lowgates, continue to M1, or provide a dual carriageway.
- Concern at impact on the Heritage Green estate.
- Concern at level of proposed development, proximity of route to existing housing, and
- Potential for routeing of vehicles through Hollingwood and on Station Road (Brimington).
- Concern at impact on the two junctions at either end of the scheme (Sainsburys and Duke Street, including Eckington Road).
- Concerns relating to carbon impacts.

4.11 All of the above considerations are being taken into account in the ongoing work on design and planning for the scheme. Cabinet will appreciate though, that not all can be fully resolved and in particular, comments relating to alternative routes can only be noted.

4.12 The planning application for the scheme is scheduled for submission at the end of 2023 and will be made to the County Council as a 'County Matters' application. The planning authority will carry out a further period of public consultation at this point, but the application itself will include a Statement of Community Involvement to demonstrate that interested parties have been given the opportunity to comment and that these comments have been properly considered. It is therefore proposed to carry out a further round of consultation commencing in May 2023.; this will be through a combination of virtual and physical formats. Cabinet is requested to give its authorisation and to delegate the agreement of consultation format and materials to the Executive Director – Place, in liaison with the Cabinet Member for Infrastructure and Environment.

### **Ground Investigation**

4.13 Alongside the work outlined above, a key element of preparing for delivery is the testing of ground conditions through an extensive programme of boreholes and assessment of the material contained with core samples. It is known that the scheme crosses land with significant contaminants and previous shallow and deep coal mining activity. Whilst the scheme design and cost estimates do take these constraints



into account, it is an important part of preparing for construction to investigate them in more detail whilst there is still time available to amend design features if required – and any implications for costs estimates.

### **Project Resources**

- 4.14 No specific authorisation is required from Cabinet to carry out ground investigation. However, this is a significant undertaking which will be very visible to the public and is also a substantial project cost. With regard to the latter issue, it is not proposed to initiate this work until clarity from DfT has been received over OBC approval, whether this will release any of the Large Local Majors grant funding to assist with cashflow considerations and, if so, what clawback provisions would be in place. Officers are working with DfT colleagues to build an understanding of these matters. In anticipation of grant funding being offered at OBC approval, delegated authority is sought for the Director of Finance and ICT to assess any conditions attached to this and, if satisfied, accept funding towards further project preparation to support this next phase of project work.
- 4.15 Irrespective of the situation with regard to the funding of ground investigation set out in Paragraph 4.14, continued development of the project through work on design, planning and land assembly will now require resources beyond those previously reported to Cabinet. This incremental approach to ‘gateway approval’ has been discussed previously and agreed with elected members – specifically the Cabinet Portfolio Holder for Infrastructure and Environment - and the Executive Director – Place. Delegated authority rests with the Executive Director – Place, in liaison with the Cabinet Member for Infrastructure and Environment, to make allocations from the Regeneration Kick Start Fund and Cabinet is asked to note that provision of up to £1.8 million will need to be made to cover essential activity up to and including August 2023. At this point, a further report to Cabinet will be required to update on OBC approval and consultation feedback and to consider the making of the planning application for the scheme. A summary of costs and activities is set out below in Table 1:

Table 1

| Date                    | Cost and Source   | Activity   |
|-------------------------|---|--|
| To April 2023           | £3.68 m (£1.0m Kick Start, £2.0 m capital, £0.68 m grant) | Business case preparation, preliminary design and consultation |
| April to September 2023 | £1.8 m (Kick Start)                                       | Design refinement, planning submission deliverables            |

|                 |                                |  |
|-----------------|--------------------------------|--|
|                 |                                | including Environmental Statement                    |
| From April 2023 | £2.5 m (grant on OBC approval) | Ground investigation (subject to grant availability) |

## Key Project Risks

4.16 Cabinet's attention is drawn to the following as key project risks:

- Failure to secure sufficient grant funding; mitigated through formalising the submission of the Outline Business Case and active dialogue with Department for Transport.
- Failure to secure sufficient private sector funding and appropriate public sector contributions (if required); mitigated through work towards collaboration agreements with the relevant landowners.
- Failure to maintain progress in accordance with the project's delivery programme; mitigated through the release of further funding for upcoming activity in advance of grant confirmation from DfT.
- Risks associated with ground conditions along the route, in particular of contamination and mine workings; mitigated through the recommended provision of resources to undertake detailed ground investigation.

## 5. Consultation

5.1 Previous and planned consultation on the Regeneration Route is set out in paragraphs 4.9 to 4.12.

## 6. Alternative Options Considered

### Public Engagement

6.1 Option 1: to not carry out any further public engagement at this stage. The consequences of this would be either a delay to the planning application submission or a risk that this would be made with insufficient evidence of community involvement.

### Ground Conditions

6.2 Option 2: to reduce or delay the undertaking of ground investigation. This is a legitimate course of action but increases the significant risk of issues being discovered later in preparation or during construction which, if known, may have affected design or even a decision on whether to proceed.

### Project Resources

6.3 Option 3: Noting that no decision on resources is placed in front of Cabinet through this report, the alternative to the proposed course of

action would be to delay the deployment of grant or of County Council resources which would impact upon the programme and hence the deliverability of the project.

## **7. Implications**

- 7.1 Appendix 1 sets out the relevant implications considered in the preparation of the report.

## **8. Background Papers**

- 8.1 Previous reports to Cabinet relating to the project: Regeneration Programme Pipeline reports dated 10 March 2022 (restricted) 16 June and 8 December 2022 (Minute Nos. 80/22, 118/22 and 208/22 refer).

## **9. Appendices**

- 9.1 Appendix 1 – Implications

## **10. Recommendations**

That Cabinet:

- a) Notes the progress being made on preparation of the Chesterfield-Staveley Regeneration Route.
- b) Approves in principle the carrying out of further consultation, and delegates authority to the Executive Director – Place, in consultation with the Cabinet Portfolio Holder, Infrastructure and Environment to agree the format and timing of this.
- c) Notes the need for the allocation of up to £1.8 million from the Regeneration Kick Start Fund to cover essential work before Cabinet next receives a report on the project, expected to be in September 2023.
- d) Approves in principle the acceptance of grant funding towards project preparation and delegates authority to the Director of Finance and ICT to review terms and conditions and to accept grant of up to £7.3 million.

## **11. Reason for Recommendations**

- 11.1 To enable progress to be made towards delivery of the Chesterfield-Staveley Regeneration Route in accordance with the programme required in order to obtain grant funding for this.

## **12. Is it necessary to waive the call in period?**

12.1 No.

Report Jim Seymour  
Author:

Contact Jim.Seymour@derbyshire.gov.uk  
details:

**Implications**

**Financial**

- 1.1 Feasibility work on the Chesterfield-Staveley Regeneration Route has been supported through the Regeneration Kick Start Fund (£1.000m allocation made in 2021-22 and 2022-23) and £0.680m of capacity funding provided by Government on earlier approval of the Strategic Outline Business Case (OBC) for the project.
- 1.2 As noted in the body of the report, an additional allocation of up to £1.800m from the Regeneration Kick Start Fund has been made available to fund essential activity ahead of a further report to Cabinet expected to be in September 2023.
- 1.3 At its meeting of 8 December 2022, Cabinet also approved virement of £2.000m of capital receipts to the project.
- 1.4 The allocations from the Regeneration Kick Start Reserve (total £2.800m) will be recoverable from grant funding in due course, should the Outline Business Case be approved. This report seeks delegated authority for the acceptance of up to £7.3 million, representing £3.0 million of budget allocated to the project to date, £1.8 million required for essential work up to September 2023 and £2.5 million for ground investigation.
- 1.5 However, Cabinet should note that there is a risk that should the project not proceed to construction, grant funding will no longer be available. Meaning that the Regeneration Kick Start funding used to support the CSRR project will not be replenished and would mean limited funds would be available for other schemes.
- 1.6 Also, as these costs would be revenue it would mean that the £2.000m of Capital Receipts could not be utilised to cover any spend to date over that funded by the Kick Start Reserve.

**Legal**

- 2.1 Further reports to Cabinet will be required in line with the programme of gateway decisions to seek approval for progressing key steps in project delivery, including planning application submission, land assembly and Full Business Case submission, and to update Cabinet generally as to progress.

- 2.2 Collaboration agreements are required between the various delivery partners – public and private sector – to ensure expectations on the relevant level of financial contribution, risk management and commitment to cost management and timely delivery are fully understood and agreed. Work on the Heads of Terms which will support the more detailed collaboration agreements is commencing.

## **Human Resources**

- 3.1 The portfolio of regeneration projects has significant implications for the workload of staff within the Economy and Regeneration Service and for supporting legal, property, finance and highways functions in particular. External support is commissioned for individual projects including the Chesterfield-Staveley Regeneration Route.

## **Information Technology**

- 4.1 None.

## **Equalities Impact**

- 5.1 Work on preparing and updating an equalities impact assessment will continue throughout project development. Issues will be identified and mitigated as far as possible within the scheme proposals.

## **Corporate objectives and priorities for change**

- 6.1 The regeneration portfolio addresses directly a number of objectives set out in the Council Plan.

## **Other (for example, Health and Safety, Environmental Sustainability, Property and Asset Management, Risk Management and Safeguarding)**

### **Property and Asset Management**

- 7.1 No direct implications arise from the recommendations of this report.

### **Environmental Sustainability**

- 7.2 Under the Council's Climate Change Strategy and Action Plan all infrastructure projects sponsored by the County Council will now be subject to a Climate Impact Assessment covering the whole-life carbon cycle and impacts upon resilience. For this project, it is under commission in parallel to an Environmental Statement.



**FOR PUBLICATION**

**DERBYSHIRE COUNTY COUNCIL**

**CABINET**

**Thursday, 6 April 2023**

**Report of the Director of Public Health**

**Investment in Active Derbyshire (Active Partners Trust)**  
(Cabinet Member for Health and Communities)

**1. Divisions Affected**

Countywide

**2. Key Decision**

2.1 This is not a Key Decision

**3. Purpose**

3.1 The purpose of this report is to seek Cabinet approval to:

- a. Extend the current grant agreement with Active Derbyshire (Active Partners Trust) to provide strategic leadership for physical activity, including additional capacity to lead the development of the Physical Activity Partnership Agreement, to the sum of £0.144m from 01 April 2023 to 31 March 2024.
- b. Update Cabinet on the progress of the Physical Activity Partnership Agreement.

## **4. Information and Analysis**

- 1.1 A grant agreement is currently in place with Active Derbyshire (Active Partners Trust) for them to support the Public Health priority of increasing physical activity levels across Derbyshire and to lead the strategic direction, informing delivery and joining up the physical activity system across the county.
- 1.2 This agreement will finish on 31 March 2023, and it is intended to align the work with the development of a Physical Activity Partnership Agreement with district and borough council's and Peak Running to develop a whole system approach to physical activity.
- 4.1 Approval was given by Cabinet on 8 September 2022 to support the development of a Physical Activity Partnership Agreement that would bring together the district and borough councils, Peak Running and Active Derbyshire (Active Partners Trust) to develop a more integrated approach to physical activity across the county.
- 4.2 The key drivers for the Partnership Agreement are to:
  - Meet the Council's financial regulations and provide long-term commissioning approach to physical activity rather than be reliant on short-term grant funding.
  - Ensure commissioning intentions are in line with strategic objectives for increasing physical activity and reducing rates of inactivity in line with the Move More Strategy, which is the Derbyshire strategy for physical activity. The strategy aims to address inequalities and empower everyone to be active in ways that works for them.
  - Deliver a more integrated approach to physical activity across Derbyshire.
  - Provide more sustainable opportunities, enable a simpler customer experience and empower residents to choose the physical activity that suits them.
  - Create a fair and consistent offer for residents, which ensures value for money.
  - Enhance monitoring and reporting mechanisms by ending nine individual grant agreements and putting in place one single partnership agreement, which can be contract managed.
  - Develop an outcome based physical activity service which will require Active Derbyshire (Active Partners Trust) to target those who are most in need and least active and provide greater choice for the individual.



- Align the strategic lead for physical activity and the Walk Derbyshire investment funding in developing a whole system approach to walking and physical activity.
  - Engage new partners as part of a whole system approach to physical activity as well as making best use of existing estate.
  - Provide more secure, longer-term investment in physical activity through a partnership agreement for a minimum of five years.
- 4.3 Work on setting up the Physical Activity Partnership Agreement has begun, and the Terms of Reference and Service Specification are now in development. Public Health are meeting regularly with Active Derbyshire (Active Partners Trust), representatives from district and borough councils, Peak Running and the Looked After Children Team.
- 4.4 The initial commencement date for the Partnership Agreement was to be in place by 01 April 2023 to coincide with the ending of the current grant agreements with district and borough councils, Peak Running and Active Derbyshire (Active Partners Trust).
- 4.5 Due to complexities in setting up the Partnership and capacity within the DCC legal department we are seeking an extension of the current grant agreement with Active Derbyshire (Active Partners Trust) for a further 12 months. This will allow sufficient time to have all the relevant paperwork and mechanisms in place for the Partnership to exist and allow time for the district and borough councils to seek approval from their relevant management teams to become members of the Partnership.
- 4.6 Permission has been sought via the Cabinet Member for Health and Communities on 06 March 2023 to also extend the current grants with the district and borough councils and Peak Running for a further 12 months to ensure a continuation of services with no break in funding whilst the Physical Activity Partnership Agreement is put in place and for the Partnership to then take over the management of these programmes.
- 4.7 The development of the Physical Activity Partnership will be driven and led by Active Derbyshire (Active Partners Trust), and therefore we are also seeking approval to grant additional funding to provide extra capacity to lead the work.
- 4.8 Extending the funding for the current service provided by Active Derbyshire (Active Partners Trust), as outlined in this report, will enable them to continue to lead the strategic direction, informing delivery and joining up the physical activity system across the county and drive

forward the development of the Physical Activity Partnership with all partners while allowing time for the finalisation of the Partnership Agreement.

## **5. Consultation**

- 5.1 Engagement with the Active Derbyshire (Active Partners Trust) has taken place to inform them of the need to extend the grant funding as the Physical Activity Partnership Agreement is unable to meet the initial commencement date of 01 April 2023.

## **6. Alternative Options Considered**

- 6.1 Do nothing and allow the current grant agreement to expire without the Partnership Agreement in place. In this scenario allowing the current grant to expire without the Partnership Agreement in place would lead to Public Health no longer having a lead strategic partner in place who is playing a crucial role in setting up the Partnership Agreement.

## **7. Implications**

- 7.1 Appendix 1 sets out the relevant implications considered in the preparation of the report.

## **8. Background Papers**

- 8.1 [Cabinet Paper – Award of Grant Funding to Active Derbyshire \(Active Partners Trust\) for the Provision of Funding to Active Derbyshire – 30 July 2020](#)

- 8.2 [Cabinet paper –Development of a partnership approach to the commissioning of physical activity provision in Derbyshire – 08 September 2022](#)

- 8.3 Cabinet Members Paper – Investment in Physical Activity Interventions – 06 March 2023

## **9. Appendices**

- 9.1 Appendix 1 sets out the implications considered in the preparation of this report.

## **10. Recommendation(s)**

That Cabinet:

- a. Approves the extension of the current grant with Active Derbyshire (Active Partners Trust) to provide strategic leadership for physical activity, including additional capacity to lead the development of the Physical Activity Partnership Agreement, to the sum of £0.144m from 01 April 2023 to 31 March 2024.
- b. Notes the update on the progress of the Physical Activity Partnership Agreement.

## **11. Reasons for Recommendation(s)**

- 11.1 Approval of the extension of the grant funding to Active Derbyshire (Active Partners Trust) will allow for the continuation of existing support to strategically lead the physical activity system across the county and to lead the development of the Physical Activity Partnership.
- 11.2 Extending the grant funding will also ensure there is no break in funding whilst the Physical Activity Partnership agreement is put in place and is fully functioning.

## **12. Is it necessary to waive the call in period?**

- 12.1 No

Report Rachel Green,  
Author: Angela Kirkham

Contact Rachel.Green@derbyshire.gov.uk,  
details: angela.kirkham2@derbyshire.gov.uk

**Implications****Financial**

- 1.1 Funding for the grant to Active Derbyshire (Active Partners Trust) will come from the Public Health Grant and Public Health Place budget.
- 1.2 The grant is broken down into the following costs and will be paid in four instalments during the grant period

| <b>Grant breakdown</b>  | <b>Allocation 01 Apr 2023<br/>– 31 March 2024</b> |
|---|---|
|   | <b>£</b>  |
| Strategic Leadership  | 0.104m  |
| Management and development of the Physical Activity Partnership | 0.040m  |
| <b>Total Grant</b>  | <b>0.144m</b>                                     |

**Legal**

- 2.1 The Council's Financial Regulations state that grants above £0.100m require Cabinet authorisation.
- 2.2 The Council's standard grant agreement will be used to set out the terms and conditions for which the grant is made and will include terms that provide for clawback of funding in certain circumstances and shall also state that the Council is not liable for any employment liabilities.

**Human Resources**

- 3.1 Derbyshire County Council accepts no employment or future redundancy liability, with all employment and related matters to be managed by Active Partners Trust. This is also stipulated in the grant agreement documentation.

**Information Technology**

- 4.1 There are no IT related implications N/A

**Equalities Impact**

- 5.1 There are no equalities related implications

**Corporate objectives and priorities for change**

6.1 This project will contribute to a number of corporate objectives and priorities including:

- Resilient, healthy and safe communities
- All people in Derbyshire are enabled to live healthy lives

## **Other**

## **Risk Management**

7.1 There are no other implications

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Agenda Item

**FOR PUBLICATION**

**DERBYSHIRE COUNTY COUNCIL**

**CABINET**

**6 April 2023**

**Report of the Executive Director of Children's Services**

**Children's Services Capital Allocations 2022-23 S106  
Children's Services - Education**

**1. Divisions Affected**

1.1 County-wide

**2. Key Decision**

2.1 This is a key decision because it is likely to result in the Council incurring expenditure which is, or savings which are significant having regards to the budget for the service or function concerned (this is currently defined as (£500,000) and it is likely to be significant in terms of its effect on communities living or working in an area comprising two or more electoral areas in the County.

**3. Purpose**

3.1 To inform Cabinet of the receipt of recent developer contributions received pursuant to agreements made under Section 106 of the Town and Country Planning Act 1990 (as amended) and to seek approval for the allocation of those contributions to projects in line with the individual Section 106 agreements.

**4. Information and Analysis**

- 4.1 Appendix 2 details the S106 contributions that have been received by the Authority or are available to claim.  
The Appendix details the schools that are to benefit from the investment, together with the planned projects.

## **5. Consultation**

- 5.1 Not applicable

## **6. Alternative Options Considered**

- 6.1 Developer contributions are to be utilised as per the S106 agreements. If we did not allocate these contributions the funding for additional school places related to the growth in housing would have to come from Basic Need.

## **7. Implications**

- 7.1 Appendix 1 sets out the relevant implications considered in the preparation of the report.

## **8. Background Papers**

- 8.1 These are held on file in the Children's Services Development Section

## **9. Appendices**

- 9.1 Appendix 1- Implications.  
9.2 Appendix 2 – Proposed schemes.

## **10. Recommendation(s)**

That Cabinet:

- a) Notes the receipt of recent developer contributions received pursuant to agreements made under Section 106 of the Town and Country Planning Act 1990 (as amended); and
- b) Approves the allocation of those contributions to projects in line with the individual Section 106 agreements as outlined in Appendix 2.

## **11. Reasons for Recommendation(s)**



11.1 The approval of the S106 allocations will ensure that the funding can be spent in line with the agreement in the allotted time available and ensure there is sufficient capacity at schools in the County

**12. Is it necessary to waive the call in period?**

12.1 No

**Report Author: Jenny Webster**

**Contact details: x35808**

**Implications**

**Financial**

- 1.1 The contributions are mainly S106 Developer Contributions. Appendix 2 summarises the funds received. The total S106 to allocate is £4,696,365.34. The total SCA 2020-21 to allocate is £13,763.91. The total S106 to reimburse basic need and SCA is £584,786.30.

**Legal**

- 2.1 The projects are agreed in line with the individual S106 legal agreements

**Human Resources**

- 3.1 None

**Information Technology**

- 4.1 None

**Equalities Impact**

- 5.1 No impact

**Corporate objectives and priorities for change**

- 6.1 Not applicable

**Other (for example, Health and Safety, Environmental Sustainability, Property and Asset Management, Risk Management and Safeguarding)**

- 7.1 Subject to funding approval the design and project delivery will either be procured via Concertus Derbyshire Ltd or via the schools.

## Appendix 2

| School                      | Development                          | Funds £           | Project  |
|-----------------------------|--------------------------------------|-------------------|--|
| Sharley Park Primary School | Land at 20-24 Broadley's, Clay Cross | 21,497.37         | The development of additional external hard play spaces.   |
|                             | 19/01085/FL                          |                   |  |
|                             | <b>Total</b>                         | <b>21,497.37</b>  |  |
| Grassmoor Primary School    | Windwistle Farm, Southend, Grassmoor | 188,030.50        | Internal remodelling to create Group Spaces. Creation of additional Toilet facilities  |
|                             | 14/00184/OL                          |                   |  |
|                             | <b>Total</b>                         | <b>188,030.50</b> |  |
| Middleton Primary School    | Porter Lane, Middleton               | 102,591.09        | Creation of Breakout Pod. A scheme has been costed at £116,355. An additional £13,763.91 is required to progress the scheme and this can be met from SCA 2020-21 |
|                             | 12/00261/OUT                         |                   |  |
|                             | <b>Total</b>                         | <b>102,591.09</b> |  |

|                               |  |  |   |
|-------------------------------|--|--|---|
| John Port School – Sixth Form | Land off the Mease<br>9/2013/1044        | 310,364.75                                     | On 10 January 2020 the Executive Director for Childrens Services approved £50,000 to commence design works on a project to expand the sixth form. On 9 September 2021 S106 totalling £1,736,351.56 and school condition funding of £80,380.29 was approved to fund the project. The scheme is now progressing and has a revised cost of £2,361,007.15 which requires an additional £764,274.30. These identified receipts can meet the cost of the increase and reimburse the SCA contribution of £80,380.20. |
|                               | New House Farm (Post 16)<br>9/2014/1136  | 690.48<br>48,429.25<br>48,429.25               |   |
|                               | Ladybank Road, Micklegate<br>9/2015/0768 | 161,060.86                                     |   |
|                               | Derby Road, Hatton<br>9/2015/1108        | 100,254.31                                     |   |
|                               | Willington Road, Etwell<br>9/2013/1040   | 11,167.70<br>1,517.00<br>67,006.20<br>3,966.99 |   |
|                               | Derby Road, Hilton<br>9/2017/1293        | 91,767.00                                      |   |
|                               | <b>Total</b>                             | <b>844,654.59</b>                              |   |

|                         |   |   |  |
|-------------------------|---|---|--|
| John Port School        | Land off the Mease<br>9/2013/1044             | 720,323.31<br>538,925.48                        | On 10 January 2020 the Executive Director for Childrens Services approved £50,000 to commence design works on a project to expand the Science block. A scheme has now been agreed and costed at £2,727,458.56. The balance of £2,677,458.79 from the identified S106 receipts can be allocated to the project. |
| Science Block Expansion | Clayton Works, Hatton<br>9/2014/0644          | 34,352.34                                       |  |
|                         | New House Farm<br>9/2014/1136                 | 690.48<br>111,637.52<br>111,637.52              |  |
|                         | Milton Road, Repton<br>9/2016/1118            | 57,424.63                                       |  |
|                         | Ladybank Road, Mickleover<br>9/2015/0768      | 376,236.98                                      |  |
|                         | Derby Road, Hatton<br>9/2015/1108             | 231,103.21                                      |  |
|                         | Etwall Road Willington<br>9/2013/0745         | 220,503.35                                      |  |
|                         | Willington Road, Etwall<br>9/2013/1040        | 25,764.10<br>3,487.00<br>154,585.20<br>9,151.96 |  |
|                         | Mercia Marina<br>9/2014/1137<br>9/2013/0733   | 10,134.60<br>22,700.94                          |  |
|                         | Askew Lodge Milton Road Repton<br>9/2017/0194 | 28,680.96                                       |  |
|                         | Derby Road, Hilton<br>9/2017/1293             | 20,119.12                                       |  |

|                                  |  |                          |   |
|----------------------------------|--|--------------------------|---|
|                                  |  |                          |   |
|                                  | <b>Total</b>                                   | <b>2,677,458.79</b>      |   |
| Queen Elizabeth's Grammar School | Old Derby Road<br>13/00911/FUL<br>17/00337/FUL | 371,376.65<br>163,623.45 | On 5 October 2017 members approved £516,158.56 towards a new teaching block. Further S106 allocations were approved on 13 February 2020 along with a basic need contribution of £629,506. The scheme is now nearing completion and has a projected total cost of £3,000,824 which leaves a shortfall of £30,593, with the remaining S106 balance of £504,407.10 reimbursing basic need. |
|                                  | <b>Total</b>                                   | <b>535,000.10</b>        |   |

|   |                                 |                             |   |
|---|---------------------------------|-----------------------------|---|
| The Curzon<br>CE Aided<br>Primary<br>School                   | Kedleston Road<br>AVA/2014/0928 | 911,920<br>*Plus indexation | This funding will<br>be used to carry<br>out an<br>expansion<br>scheme at the<br>school to<br>provide two<br>additional<br>classrooms and<br>internal<br>remodelling to<br>provide a hall<br>extension. |
|   | <b>Total</b>                    | *911,920                    |   |
| <b>Total S106 to<br/>allocate</b>                             |                                 | <b>4,696,365.34</b>         |   |
| <b>Total SCA to<br/>allocate</b>                              |                                 | <b>13,763.91</b>            |   |
| <b>Total S106 to<br/>reimburse<br/>Basic Need<br/>and SCA</b> |                                 | <b>584,786.30</b>           |   |

#### Report Sign Off and Version Control

|                  |   |
|------------------|---|
| Report Title     | Children's Services Capital Programme<br>2022-23 – S106 allocations |
| Author           | Jenny Webster   |
| Meeting and Date | Cabinet – 6 <sup>th</sup> April 2023                                |

|   |    |
|---|----|
| Version   | 1  |
| Key Decision (published)                          | No |
| Exempt item (notice of private meeting published) | No |

| Implications                                   | Name and Comments | Date Approved |
|--|-------------------|---------------|
| Finance  |                   |               |
| Legal  |                   |               |
| Human Resources                                |                   |               |
| Information Technology                         |                   |               |
| Equalities                                     |                   |               |
| Corporate Objectives and priorities for change |                   |               |
| Consultation                                   |                   |               |
| Other – please specify                         |                   |               |

Author's Directorate Sign Off

|  |  | Date |
|--|--|------|
| Managing Executive<br>Director/Executive<br>Director |  |      |
| DMT – if applicable                                  |  |      |
| CMT – if applicable                                  |  |      |
| Cabinet Member briefed                               |  |      |
| Other – please specify                               |  |      |





**FOR PUBLICATION**  
**DERBYSHIRE COUNTY COUNCIL**  
**CABINET**

**Thursday, 6 April 2023**

**Report of the Executive Director - Adult Social Care and Health**

**Care Home Fee Proposals 2023 -24**  
(Cabinet Member for Adult Care)

**1. Divisions Affected**

County-wide

**2. Key Decision**

Yes this is a key decision because it will

(a) result in the Council incurring expenditure which is, or the making of savings which are, significant having regard to the local authority's budget for the service or function to which the decision relates;

**3. Purpose**

To seek Cabinet approval to:

- increase the rate paid to independent sector residential care homes for the financial year 2023-24 by 9.53% per week;
- increase the rate paid to independent sector nursing homes for the financial year 2023-24 by 9.53 % per week
- make an inflationary payment of up to 9% for specialist care home placements where evidence is provided of inflationary pressures;
- set a rate of £49.70 per day (from £45.38 per day) for a day care placement in a care home;
- increase the rates for in-house day care and residential care by 9.53%;
- increase the dementia fee rate by 9.53% per week (from £50.75)
- make an inflationary payment of up to 6% for well-performing block contracts in specific circumstances.

#### **4. Information and Analysis**

- 4.1 The focus of this paper is to consider the inflationary pressures experienced by Care Homes and to make recommendations about future funding arrangements for the financial year 2023-24.

The Council has contract arrangements in place with over 174 independent sector care homes for older people that, as of 1 January 2023, provided support on behalf of the Council to approximately 2,336 people as detailed below:

- 668 people in nursing placements where the person needs constant involvement of, or supervision by a qualified nurse.
- 1,457 residential placements.

- 4.2 The Care Market has experienced a challenging 12 months, with COVID 19 still impacting local care homes, inflationary increases on business costs and the demands from the health and social care system to respond at pace to assist with Hospital Discharge. Locally providers and their staff have continued to respond positively to these and other challenges to support people in their care.

#### **4.3 Fee Levels**

The Care Act 2014 places a duty on Councils to ensure that there is a sustainable and affordable social care market. This includes establishing fee levels that providers will receive for commissioned care.

A comprehensive review of fee levels for independent sector care services is undertaken annually. To assist with this review representatives of the Derbyshire Care Providers Association (“the Association”) were invited to meet with Councillor Hoy Cabinet Member for Adult Social Care and Colin Selbie, Assistant Director for Adult Social Care and Health on the 16 February 2023 to set out particular business pressures affecting the care market and their costs.

The views shared at this meeting have assisted the Council in detailing 2023-24 fee proposals described in this paper. The Council has also received additional requests from other Care Home providers not represented by the Association for a fee increase and these views have also been considered when setting fee proposals.

- 4.4 This report summarises the engagement findings, the reported cost pressures and feedback from providers. The report sets out details of the funding model used by the Council and the proposed rates for 2023/24 for residential care home placements. The findings from this exercise are then used to inform fee modelling for nursing care and specialist care.

#### 4.5 Costs Highlighted by Home Care Providers

The Association met with Council officers on 19 January 2023 to discuss the sector's views about current market conditions and inflationary pressures. The views shared at this meeting and in further written submissions made to the Council have informed the fee proposals detailed in this paper.

In responding to the providers' request for an inflationary fee increase, the Council has identified the main budget headings that need to be considered when setting home care fee rates. Appendix 1 details these headings and the proposed inflationary increases and justification are set out below.

#### 4.6 Adult Social Care Reform

Providers have expressly asked that the fee analysis should also be informed by the Fair Cost of Care exercise that the Council undertook during the summer of 2022 as part of the Department of Health and Social Care's (DHSC) adult social care reform agenda.

As part of the adult social care reform agenda, local authorities were required to complete a cost of care exercise to better understand the local cost of providing care. The home care market was surveyed using a fee tool to better understand their costs. The DHSC requirement of this exercise was to identify the Median Cost and compare against the current fees paid by the Council. In the original DHSC guidance the Median Value is described as a 'Fair' Cost (FCoC) value. The findings and analysis of this exercise is detailed at [Cost of care report - our care homes \(derbyshire.gov.uk\)](https://www.derbyshire.gov.uk/cost-of-care-report-our-care-homes)

##### The Council Response

The Council notes the intentions of the DHSC cost of care exercise and the potential benefits in terms of greater understanding of the market. However, the Council cannot stress strongly enough that the FCoC median costs alone are not an appropriate basis to inform Derbyshire County Council's commissioning fee rates.

Whilst it is fair to say that the median is less skewed by high outlier values (as opposed to mathematical averages), the median values themselves can be skewed if the dataset does not comprise an appropriate and representative sample of the existing make-up of providers in the local market. It is also vitally important to recognise (and ensure) that it was not possible via this process to be assured that the data that has been obtained reflects an overall pool of efficient providers as referenced in the requirements of Section 4.31 of the Care and Support Statutory Guidance.

For this reason, we must be clear that the FCoC median costs obtained through this exercise do not have sufficient robustness to provide an absolute basis sufficient to inform any finalised sustainable fee rates for future Council commissioning of home care. The data collected through this process will

provide rich intelligence on which to base further work to support future Council commissioning and market shaping. There are significant concerns as to the quality and completeness, relevance and reliability of the data received from Providers.

It is our intention to continue to use the Council's current fee model for identifying fees for 2023-24 and will undertake further detailed analysis of the data obtained through the FCoC exercise with Providers. The focus of this activity will be on better understanding the costs that contribute towards staffing costs and return on investment/profit. The results of this further work to be undertaken with Providers and will inform the Council's usual fee rates and commissioning arrangements for care homes and will be part of the Council's Market Sustainability Plan.

#### 4.7 Council Response and Analysis of Fee Proposals

##### Staff Costs

The Association in their meeting with the Council on the 16 February 2023 and in previous correspondence argue that the Council's fee model does not reflect the true costs of staffing and in their view the funds allocated in the fee model means they are unable to pay above the minimum wage. Providers have stated that the Council's fee model is flawed and that this is supported by the findings of the FCoC exercise which showed a difference of approximately £50 staffing costs per week. They have also questioned why the Council's model does not include a budget line for use of agency staffing to cover costs of absent staff.

The increase in national minimum wage on the 1 April 2023 is supported by Providers however they would like the Council to pay more for staffing to enable them to pay their staff more than the minimum wage to be able to recruit and retain staff and maintain differentials between staff groups. Providers have consistently reported to the Council on-going difficulties with recruitment and retention of staff. They report that they are competing with other services that are increasing wage levels and offering better terms than they can offer.

##### Council response

To reflect the National Living Wage, increase the Council has decided to apply a 9.7% increase on the calculation of all staff costs. The previously increased contribution made in 2022-23 fee setting towards National Insurance costs, which were not fully implemented will remain within the fee model and Providers will be encouraged to ensure any surplus is used to contribute to staff wages.

The Council was able to make an increased payment of £26.04 per week for all residential care home placements and £28.00 per week for nursing placements from 1 October 2022 utilising the DHSC Market Sustainability

and Fair Cost of Care Fund. This additional funding is aimed at assisting Council's to respond to the FCoC exercise and to make additional on-going payments to providers. This payment will continue but it will be additional to the inflationary modelling and in the future this value will be added to the utility costs in the fee model.

#### Nursing provision

The Association has requested that the Council respond in the fee setting exercise to concerns in respect of sustainability of Care Homes with Nursing. It has been highlighted that people are often very unwell when they attend a nursing home and their stay is short so there is greater movement of residents impacting on continuity of occupancy rates.

The Association have noted that the Council has previously signalled that there is likely to be an increased need for nursing beds in the next 10 years and have questioned how the Council is going to encourage investment. The Association have asserted that the current level of funding does not allow for any new investment into Derbyshire and in their view any failure to increase the Council's contribution will contribute to further de-registration of nursing homes.

#### Council Response

The sustainability of the Nursing Care Home market is of great importance to the Council as it assists with ensuring that there are suitable places for people to live following a period of admission in hospital.

NHS-funded nursing care was first introduced in England by the Health and Social Care Act 2001. Since its introduction, the NHS has funded a contribution towards the costs of nursing care, known as NHS-funded nursing care (NHS FNC) at nationally set standard rates for those individuals who are assessed as eligible for NHS FNC. The NHS at a national level determine the reasonable costs of providing the nursing element of care in a registered nursing home for FNC eligible residents. Reasonable costs are those which should allow care homes to provide sufficient numbers of suitably qualified, competent, skilled and experienced persons to provide NHS FNC. The NHS FNC rate for 2022-23 is £209.19. The Council contributes a further £45.92 per placement per week additional to the standard residential fee to assist with nursing costs.

The Council accepts that any new investment into increasing the availability of nursing beds will need to be part of a broader funding strategy with the local NHS. The planning for such investment will need to be affordable for the Council and be informed by the findings of the FCoC exercise.

## Additional Cost Pressures

Providers have expressed concern about the rising inflationary pressures and have asked that the Council respond to these in the fee setting exercise. They particularly highlighted the uncertainty of inflationary increases associated with gas and electricity.

Food costs have also been highlighted by providers with evidence from food suppliers with inflation currently being as high as 16.9%.

The Association also highlighted that in their view the Council has undervalued a number of the costs in the fee model. They have particularly highlighted that obtaining/renewing care home insurance has been especially difficult with some insurance providers leaving the market and others increasing their premiums.

They also asked that the costs for provision of agency staffing and recruitment costs are also reconsidered as some providers have needed to use agency staffing to cover for staff needing to self-isolate.

## Council Response

The Council notes the average insurance costs provided by an Insurance Broker and shared with the Council by the Association. The Council has decided to use a standard inflationary value of 7.5% noting that we are not sighted on costs of all providers and they will all have different insurance values.

The Council welcomes the Government's recent guidance that it will continue to offer free PPE until March 2024 or until stocks are exhausted.

### 4.7 Direct Care Provision

The Association has also expressed concern about the level of funding of the Council's own Care Home provision and especially the fees paid for the beds in the Community Care Centres which are above those paid to privately run care homes. They have argued that the fee rates and capital costs paid for Direct Care provision are greater than the Council is prepared to pay for equivalent provision in the independent sector. The Association believes that the Independent Sector provides "Best Value" for the local taxpayer and that the Council spends more on its own Care Homes than it does on individual placements in the independent sector.

## Council Response:

The Council notes their concerns.

#### 4.8 Care Home Fees for other Client Groups and Specialist Placements

The proposals made in this report, and summarised in Appendix 2, focus on the basic Care Home fee rates for older people. It is proposed to also increase the base fee rates for Residential Care Home placements by 9.53% and placements in Nursing Homes by 9.53% for other client group placements. This includes care home provision for people with a physical disability, people with learning disabilities and people with mental ill health-see Appendix 3.

The changes proposed to the basic fee rates for other client groups will not change the level of funding already paid against specialist care home placements where fee rates have been individually negotiated to ensure that the needs of people who require complex support/care arrangements are met. The fees for specialist placements are often substantially more than the standard care home fees.

The additional funding (top-up) paid for a specialist placement reflects the greater investment in staff and training to meet an individual's needs. It is proposed that up to 9% can be agreed with providers in receipt of specialist placements where they can evidence their increase in costs.

#### 4.10 Dementia Fee Rate

An additional payment of £50.75 per week is currently paid towards supporting people with a diagnosis of dementia which is payable to homes that meet set criteria of dementia-friendly provision. It is proposed this payment is increased by 9.53% to give a new value of £55.58 per week from 1 April 2023.

An additional interim payment of £2.17 was made from 1 October 2022 utilising the DHSC Market Sustainability and Fair Cost of Care Fund. This additional funding is aimed at assisting Council's to respond to the FCoC exercise and to make additional on-going payments to providers. This payment will continue but it will be additional to the inflationary modelling and in the future this value will be added to the staffing in the fee model. This will provide a new value of £57.75.

The Dementia fee was introduced to encourage homes to demonstrate that they have the skills, experience, environment and organisational culture in place to provide high quality dementia care. The Council presented this criterion as many providers describe their service as being able to meet the needs of people with dementia but are unable to evidence that staff have adequate training, that the culture of the service is dementia friendly or that the environment has been adapted to be suitable for someone with a diagnosis of dementia. The importance of this award will continue to be promoted with care home providers to increase the take up.



#### 4.11 Day Care Placements in Care Homes for Older People

Some people who are supported to live in their own homes can use day care places in care homes for older people. The care home is often situated close to where an individual resides and the homes frequently help with transport to and from the home, as well as providing meals. In some cases, homes will also provide a bathing service and are very flexible with places being made available at weekends and evenings, which can help Carers to get a break. This arrangement has been underutilised over the past couple of years as it was difficult to sustain during the pandemic as Care Homes were recommended to restrict visitors into their homes.

The standard fee rate paid by the Council for day care placements in independent sector care homes is currently £45.38 per day. It is proposed for 2023-24 that this fee level to be paid to providers is increased by 9.53% to provide a new daily fee of £49.70 per day.

#### 4.12 Block Contracts

Adult Care has a small number of block contracts with independent sector profit and not for profit organisations. A number of these agreements were established before the updated National Living Wage rate due on the 1 April 2022. A number of these providers have requested an inflationary increase to assist them with meeting these and other additional unforeseen costs. It is proposed that payments of up to 6% can be agreed by the Executive Director of Adult Social Care and Health where Providers submit detailed evidence via open book accounting of their increase in costs. The decision making will include evidence showing that they are currently meeting their agreed targets for activity and performance and that they are unable to make efficiencies without impacting on the quality of provision.

### 5 Consultation

- 5.1 The Council is required as part of Care Act 2014 duties to undertake a fee setting exercise each year to ensure that fees allow for a sustainable market.

The local Care Home Provider Association have been requested to detail their member's concerns about current inflationary pressures so that the Council can ensure fee increases respond to these pressures. The outcome of these fee discussions will be further shared with Providers for their comments and are specifically addressed above.

### 6 Alternative Options Considered

- 6.1 To offer no increase in fee levels from 1<sup>st</sup> April 2023. This would severely impact the market as providers would be unable to pay their staff the national minimum wage increase. The Council has a responsibility of ensuring the sustainability of the market and ensuring that fees take account of inflationary increases to support a range of providers across the County to provide choice.



Any failure to pay increased fees would destabilise what is already a fragile market that is struggling to recruit and retain staff.

- 6.2 Alternatively, the Council could increase the fees to match the requests being submitted by the Association and other Care Home Providers. The Council believes that the fee modelling described in this paper is fair and affordable.

## **7 Implications**

- 7.1 Appendix 1 sets out the relevant implications considered in the preparation of the report.

## **8 Background Papers**

## **9 Appendices**

- 9.1 Appendix 1 – Implications
- 9.2 Appendix 2 – Fee Modelling
- 9.3 Appendix 3 – Usual Cost of Care Fee Rates – From 1 April 2023
- 9.4 Appendix 4 – 2023 -24 fee rates with additional interim Market Sustainability payment

## **10 Recommendation(s)**

That Cabinet agrees to:

- increase the rate paid to independent sector residential care homes for the financial year 2023-24 by 9.53% per week;
- increase the rate paid to independent sector nursing homes for the financial year 2023-24 by 9.53% per week
- make an inflationary payment of up to 9% for specialist care home placements where evidence is provided of inflationary pressures;
- an updated fee rate of £49.70 per day (from £45.38 per day) for a day care placement in a care home;
- increase the rates for in-house day care and residential care by 9.53%;
- increase the dementia rate by 9.53% per week
- make an inflationary payment of up to 6% for well-performing block contracts in specific circumstances.

## **11 Reasons for Recommendation(s)**

- 11.1 The recommendations to increase a range of fee levels by 9.53% will support providers to pay their staff the equivalent of the National Minimum wage increase from the 1 April 2023.

The proposed increases are in line with the duty placed on the Council by the Care Act 2014 to promote a sustainable market.

Failure to increase fees in line with inflationary pressures will undermine the Council's ability to secure services for people with an assessed social care need.

## **12 Is it necessary to waive the call in period?**

### **12.1 No**

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details:

## **Implications**

### **Financial**

- 1.1 The estimated annual cost of this proposal to increase fee rates from 1 April 2023 is £11.2M per annum. This will be funded from the service pressure growth bid for Adult Care fee increases which was approved as part of the Revenue Budget Report 2023-24 by Full Council on 15<sup>th</sup> February 2023. The Contingency Budget includes £22.8M to fund fee uplifts for the full range of Adult Care contracts.

### **Legal**

- 2.1 Section 5 of the Care Act 2014 places a duty on the Council to promote an efficient and effective market, with a view to ensuring that any person in its area wishing to access services in the market:
- a) has a variety of providers to choose from who (taken together) provide a variety of services;
  - b) has a variety of high-quality services to choose from; and
  - c) has sufficient information to make an informed decision about how to meet the needs in question.

In performing that duty, the Council must have regard to the importance of ensuring the sustainability of the market. Sufficient inquiries should be undertaken, to ensure the Council is properly informed of the local market conditions.

The Care and Support Statutory Guidance further details the duties on local authorities to facilitate markets that offer a diverse range of high-quality and appropriate services. The Council must assure itself that the fee levels do not compromise the provider's ability to (1) support and promote the wellbeing of people receiving care and support; (2) meet the statutory obligations to pay at least the national minimum wage; and (3) provide effective training and development of staff.

Case law is clear that the Council should take steps to ensure that fee levels reflect the actual cost of care. The rates should also take into account the legitimate current and future costs, and the potential for improved performance and most cost-effective ways of working.

The Council is under a duty to promote diversity and quality in the market of care and support provision. The Association has put forward an argument that the Council is in breach of this statutory duty, as the current rates are below the actual cost of care. The Council is satisfied that the methodology used in calculating the proposed fee increase is equitable and properly reflects the increased cost pressures highlighted by the providers.

## **Human Resources**

- 3.1 There are no human resources considerations associated with this report.

## **Information Technology**

- 4.1 There are no Information Technology considerations associated with this report.

## **Equalities Impact**

- 5.1 Providers are required to adhere to Derbyshire County Council's Equal Opportunities policies.

## **Corporate objectives and priorities for change**

- 6.1 This proposal will support local business to recruit and retain staff to provide support to people so that they may continue to live in their own homes to control their personal circumstances and aspirations.

## **Other (for example, Health and Safety, Environmental Sustainability, Property and Asset Management, Risk Management and Safeguarding)**

- 7.1 In preparing this report the relevance of the following factors has been considered: human resources, health, environmental, transport, and crime and disorder considerations.

## Appendix 2

### Fee Modelling

#### **Inflation Assumptions used by Derbyshire County Council to Identify Fee Rates for 2023-24**

In considering the budget lines in the fee cost model below the Council utilised the Office of National Statistics' Consumer Price Inflation (CPI) reference tables Tab 8 for December 2022 as a proxy for understanding the costs in the care industry. The following calculation is based on the fee levels agreed for payment from April 1, 2022. The interim additional weekly fee payment made of £26.04 effective from 1<sup>st</sup> October 2022 via the Market Sustainability Grant will be added on to Care Home staffing costs to be considered in future inflationary models. Because Nursing Home placements received £28.00 additional weekly fee the difference of £1.94 will be added to the additional nursing payment. See Appendix 4 for consolidated fees inclusive of the inflationary increase against 2022-23 fee and Market Sustainability Grant

Some of the budget lines used in Appendix 2 do not have a direct corresponding goods or services division in the CPI report in such cases individual judgements have been made about how inflation may contribute to the costs of running a care home. The CPI report noted that standard inflation for care home provision is 7.5% which is used as default in this fee modelling tool.

#### **Staffing**

From April 2023 Providers will be required to pay all staff over 25 at least the national living wage of £10.42 per hour which is equivalent to a 9.7% increase on the national living wage.

The Council has decided to use the 9.7% minimum wage increase for all staff costs including staff aged under 25. It is also proposed that any other costs linked to staffing eg pension are also increased by 9.7%.

#### **Repairs and Maintenance**

The average CPI value for these areas of cost is 7.3% which have been used for these cost lines.

#### **Other Non-Staff Costs**

Food inflation in CPI report is identified at 16.9% the Council proposes to use value.

For utilities the Council has used the average overall value of standard inflation value by 11.7%.

There is no direct comparison for Insurance Costs in the CPI tables; the value used in the Council's fee model is £4.16 per person per week. Noting that all care homes

are different sizes and undertake different activity and at different stages of renewal of their insurance it is proposed to use 16.1% as the standard inflationary value.

### Registration Fees:

Neither the Care Quality Commission or Disclosure Barring Service have reported increases in fees for 2023-24 so this value will remain the same.

### Additional Contribution to Utility Costs

The Council was able to make an increased payment of £26.04 per week for all residential care home placements from 1 October 2022 utilising the DHSC Market Sustainability and Fair Cost of Care Fund. This additional funding is aimed at assisting Council's to respond to the FCoC exercise and to make additional on-going payments to providers. This payment will continue to be paid but it will be additional to the inflationary modelling and in the future this value will be added to the utility costs in the fee model unless there is a reduction in inflationary impact on gas and electricity.

### **CARE HOME PLACEMENT FEE MODEL (WITHOUT NURSING)**

| PERSONAL CARE ONLY FOR FRAIL<br>OLDER PEOPLE                     | 2022/23       | inflation | 2023/24       |
|--|---------------|-----------|---------------|
| A) STAFF, INCLUDING EMPLOYERS' ON-<br>COSTS                      |               |           |               |
| TOTAL CARE ASSISTANTS (inc senior)<br>STAFF                      | 242.92        | 9.7%      | 266.48        |
| Catering, cleaning and laundry staff cost<br>per resident        | 54.75         | 9.7%      | 60.06         |
| Other Staff Costs (excluding management and<br>admin)            | 5.26          | 9.7%      | 5.77          |
| Management, administration, reception<br>staff cost per resident | 75.68         | 9.7%      | 83.02         |
| National Insurance   | 22.75         | 9.7%      | 24.96         |
| Pension Cost   | 12.05         | 9.7%      | 13.22         |
| <b>TOTAL STAFF</b>   | <b>413.41</b> |           | <b>453.51</b> |
|  |               |           |               |
| B) REPAIRS AND MAINTENANCE                                       |               |           |               |
| Maintenance capital expenditure                                  | 18.96         |           | 20.34         |
| Repairs and maintenance (revenue costs)                          | 10.70         |           | 11.48         |
| Contract maintenance of equipment                                | 2.02          |           | 2.17          |
| <b>TOTAL REPAIRS AND MAINTENANCE</b>                             | <b>31.68</b>  | 7.3%      | <b>33.99</b>  |

### C) OTHER NON-STAFF CURRENT COSTS

#### AT HOME

|   |               |       |               |
|---|---------------|-------|---------------|
| Food  | 25.74         | 16.9  | 30.09         |
| Utilities (gas, oil, electricity, water, -telephone)              | 27.98         | 11.7  | 31.25         |
| Handyman and gardening (on contract)                              | 9.94          | 7.5   | 10.68         |
| Insurance   | 4.16          | 16.07 | 4.83          |
| Total medical supplies and continence products                    | 4.02          | 4.7   | 4.21          |
| Trade and clinical waste  | 2.79          | 7.5   | 3.00          |
| Registration fees (including DBS checks)                          | 3.57          | 0     | 3.57          |
| Recruitment   | 0.82          | 7.5   | 0.88          |
| Direct training expenses (fees, facilities, travel and materials) | 11.34         | 7.5   | 12.19         |
| Other non-staff current expenses                                  | 23.15         | 7.5   | 24.89         |
| Equipment Costs   | 3.92          | 4.7   | 4.10          |
| <b>TOTAL NON-STAFF CURRENT EXPENSES</b>                           | <b>117.43</b> |       | <b>129.69</b> |
| <br>TOTAL EXCLUDING CAPITAL                                       | <br>562.52    |       | <br>617.19    |
| Return on capital   | 50.69         | 7.5%  | 54.49         |
| <b>Summary Weekly Fee</b>   | <b>613.21</b> |       | <b>671.68</b> |
| Divisible by 7  | 613.20        | 9.53% | 671.65        |

### Appendix 3

**Usual Cost of Care Fee Rates – From 1 April 2023 Before Market Sustainability Contribution of £26.04 on older people residential and £28.00 on nursing fee**

|  | <b>Weekly<br/>Standard Rate</b> | <b>Quality Premium<br/>Rate<br/>(Additional<br/>£24.92 per week)</b> |
|--|---------------------------------|--|
|  | <b>£</b>                        | <b>£</b>   |
| <b>INDEPENDENT SECTOR</b>  |                                 |  |
| <b>Residential Placement</b>   |                                 |  |
| Older People/Mental Health/people recovering from Drug & Alcohol misuse              | 671.65                          | 696.57   |
| Physical Disability (>65)  | 766.78                          | 791.70   |
| Learning Disability  | 692.44                          | 717.36   |
| <b>Nursing Placement</b>   |                                 |  |
| Older People/Mental Health/people recovering from Drug & Alcohol misuse              | 721.91                          | 746.83   |
| Physical Disability (>65)  | 762.23                          | 787.15   |
| Learning Disability  | 687.54                          | 712.46   |
| Nursing fees exclude Funded Nursing Care contribution.                               |                                 |  |
| <b>Dementia Care Payment</b>   |                                 |  |
| Residential & Nursing  | 55.58                           |  |
| <b>Day Care (per day)</b>  |                                 |  |
| Residential & Nursing  | 49.70                           |  |
| <b>IN HOUSE PROVISION</b>  |                                 |  |
| <b>Residential Placement</b>   |                                 |  |
| Homes for Older People   | 895.72                          |  |
| Homes for Older People (Preserved Right Pre 01/10/20)                                | 696.57                          |  |
| Community Support Beds / Specialist Dementia   | 1,451.03                        |  |
| Community Support Beds / Specialist Dementia (Preserved Rights 01/08/18 to 30/09/20) | 1,290.17                        |  |
| Community Support Beds / Specialist Dementia (Preserved Rights Pre 01/08/18)         | 696.57                          |  |
| LD Residential   | 1,515.99                        |  |
| <b>Day Care (per day)</b>  |                                 |  |
| Older People   | 48.65                           |  |
| Learning Disability  | 63.84                           |  |



## Appendix 4

### Care Fee Rates – From 1 April 2023 INCLUSIVE of the Market Sustainability Grant Contribution

|   | Weekly<br>Standard Rate | Quality Premium<br>Rate<br>(Additional<br>£24.92 per week) |
|---|-------------------------|--|
|   | £                       | £  |
| <b>INDEPENDENT SECTOR</b>   |                         |  |
|   |                         |  |
| <b>Residential Placement Older People only</b>                    | <b>697.69</b>           | <b>722.61</b>  |
|   |                         |  |
| <b>Nursing Placement Older People only</b>                        | <b>749.91</b>           | <b>774.83</b>  |
|   |                         |  |
| <b>Nursing fees exclude NHS Funded Nursing Care contribution.</b> |                         |  |
|   |                         |  |
|   |                         |  |
| <b>Dementia Care Payment<br/>Residential &amp; Nursing</b>        | <b>57.75</b>            |  |
|   |                         |  |

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**FOR PUBLICATION**

**DERBYSHIRE COUNTY COUNCIL**

**CABINET**

**Thursday, 6 April 2023**

**Report of the Executive Director - Adult Social Care and Health**

**Home Care and Day Care Fee Proposals for 2023-24**

(Cabinet Member for Adult Care)

**1. Divisions Affected**

1.1 County-wide

**2. Key Decision**

2.1 This is a key decision because it is likely to result in the Council incurring expenditure over £500,000

**3. Purpose**

3.1 To seek Cabinet approval;

- to make an inflationary increase of 9.2% for independent sector home care provision from 1 April 2023
- to increase travel/visit rates by an average of 9% from 1 April 2023
- to increase the fee rate for in-house home care and extra care provision from 1 April 2023 by 9.2%
- to make an inflationary increase of up to 9.2% for specialist home care placements where evidence is provided of inflationary pressures
- to make a standard inflationary increase of 9% for day care provision for individual commissioned placements from 1 April 2023

#### **4. Information and Analysis**

- 4.1 Under the Care Act 2014, Councils have a duty to ensure that there is a sustainable and affordable social care market. This includes establishing fee levels that providers will receive for commissioned care that is delivered to meet a person's assessed needs. To ensure that the Council is aware of and take account of the cost pressures affecting local providers of care, engagement and consultation with local homecare providers has been undertaken.

This report summarises the engagement findings, the reported cost pressures and feedback from providers. The report sets out details of the funding model and the proposed rates for 2023/24 for standard for homecare services. The findings from this exercise are then used to inform fee modelling for specialist homecare and day care.

- 4.2 There are approximately 3,500 people currently in receipt of long-term home care support from up to 50 commissioned independent sector home care providers. The in-house homecare service is focused on providing tailored short-term reablement services which are focused on supporting people to regain or learn new skills to be able to live safely at home following an illness.

The Council engages regularly with Derbyshire Homecare Association ("the Association") to understand how the market can be supported to meet the local demand for homecare services. The Association represent many of the local independent home care providers and they are consulted each year on determining sustainable fee levels for the following financial year.

- 4.3 Costs Highlighted by Home Care Providers

The Association met with Council officers on 19 January 2023 to discuss the sector's views about current market conditions and inflationary pressures. The views shared at this meeting and in further written submissions made to the Council have informed the fee proposals detailed in this paper.

The Association have reported that they "do have some concerns that it (Council's Fee Model) is presenting an inaccurate picture of the realities of running a care business. In particular the costs of running the business are quite materially underestimated." They stated, "We would like to work with the council during the year, possibly as part of the fair

cost of care work, to develop a more accurate model to use for future fee discussions.”

In responding to the providers’ request for an inflationary fee increase, the Council has identified the main budget headings that need to be considered when setting home care fee rates. Appendix 1 details these headings and the proposed inflationary increases and justification are set out below.

## Adult Social Care Reform

Providers have expressly asked that the following fee analysis should also be informed by the Fair Cost of Care exercise that the Council undertook during the summer of 2022 as part of the Department of Health and Social Care’s (DHSC) adult social care reform agenda. The specific ask was that the Council should ensure that the Council’s fee model should better reflect office costs as their view is that these are undervalued when considered alongside the findings of the FCoC exercise.

As part of the adult social care reform agenda, local authorities were required to complete a cost of care exercise to better understand the local cost of providing care. The home care market was surveyed using a fee tool to better understand their costs. The DHSC requirement of this exercise was to identify the Median Cost and compare against the current fees paid by the Council. In the original DHSC guidance the Median Value is described as a ‘Fair’ Cost (FCoC) value. The findings and analysis of this exercise is detailed at [Cost of care report - our home care \(derbyshire.gov.uk\)](https://www.derbyshire.gov.uk/cost-of-care-report)

## The Council Response

The Council notes the intentions of the DHSC cost of care exercise and the potential benefits in terms of greater understanding of the market. However, the Council cannot stress strongly enough that the FCoC median costs alone are not an appropriate basis to inform Derbyshire County Council’s commissioning fee rates.

Whilst it is fair to say that the median is less skewed by high outlier values (as opposed to mathematical averages), the median values themselves can be skewed if the dataset does not comprise an appropriate and representative sample of the existing make-up of providers in the local market. It is also vitally important to recognise (and ensure) that it was not possible via this process to be assured that the data that has been obtained reflects an overall pool of efficient

providers as referenced in the requirements of Section 4.31 of the Care and Support Statutory Guidance.

For this reason, we must be clear that the FCoC median costs obtained through this exercise do not have sufficient robustness to provide an absolute basis sufficient to inform any finalised sustainable fee rates for future Council commissioning of home care. The data collected through this process will provide rich intelligence on which to base further work to support future Council commissioning and market shaping. There are significant concerns as to the quality and completeness, relevance and reliability of the data received from Providers. For instance, there has been no opportunity to validate any of the information presented by Providers, all submissions have been made in good faith.

It is our intention to continue to use the Council's current fee model for identifying fees for 2023-24 and will undertake further detailed analysis of the data obtained through the FCoC exercise with Providers. The focus of this activity will be on better understanding the costs that contribute towards office costs and return on investment. The results of this further work to be undertaken with Providers and will inform the Council's usual fee rates and commissioning arrangements for home care provision and will be part of the Council's Market Sustainability Plan.

### National Living Wage

Providers have identified that the National Living Wage is due to increase by 9.7% for staff aged 25 and over from 1 April 2023 (from £9.50 per hour to £10.42 per hour a 92p increase). They note that they have very few staff aged under 25 and that they do not want a two-level pay system, as this would be detrimental to recruitment and retention of under 25's to the industry. This increase in minimum wage is supported by Providers however they would want to pay more than this to be able to recruit and retain staff and maintain differentials between staff groups.

Providers have consistently reported to the Council on-going difficulties with recruitment and retention of staff. They report that they are competing with other services that are increasing wage levels and offering better terms than they can offer. Providers have had to hand work back to the Council because they are no longer able to cover calls due to staff leaving. The impact has been a reduction in the numbers of people being supported by Home Care providers and the Council has faced difficulties in gaining support for new Home Care packages.

The Association have proposed the fee model should increase by National Minimum wage, “so we have proposed an increase to £15.06 on the ‘Net Hourly Rate’”

#### Council response

To reflect the National Living Wage, increase the Council has decided to apply a 9.7% increase on the calculation of hourly home care wages for all staff including those aged under 25. The previously increased contribution made in 2022-23 fee setting towards National Insurance costs, which were not fully implemented will remain within the fee model and Providers will be encouraged to ensure any surplus is used to contribute to staff wages.

The Fee Model in Appendix 2 shows this calculation and sets a new net hourly rate of £15.06.

#### Travel time

The Association have highlighted that when Her Majesty’s Revenue and Customs (HMRC) undertake checks payment of wages by home care providers they are focused on ensuring that providers pay their home care staff at least the minimum wage for their travel time between calls. The Association would like the Council to ensure that the travel rates paid reflect journey time and allow them to meet their national minimum wage obligations.

In discussions they have also noted that urban calls are often challenging to pick up due to the current rate paid by the Council and have asked if any inflationary increase could be positively weighted to this fee rate.

Providers have also highlighted the substantial increase in fuel costs and have asked that the Council increases the Travel Payment to ensure staff are satisfactorily reimbursed for fuel and servicing.

#### Council response

The Council makes an additional payment per home care visit to assist providers in paying staff travel time and to meet the costs incurred by staff. The National Minimum Wage rules require home care providers to count travel time between visits towards the calculation of working time. The impact of the National Living Wage means that providers should have to pay staff more to compensate for the travel time element.

As noted, the Council pays an additional amount to providers for each home care visit to assist providers to meet costs associated with travelling from one call to the next. There are currently four values as shown in the table below:

| <b>Value per Home Care Visit</b> | <b>2022-23<br/>Updated 18*<br/>July</b> | <b>Proposed</b> | <b>Increase %</b> |
|----------------------------------|---|-----------------|-------------------|
| Urban                            | £2.74                                   | £3.19           | 16.4%             |
| Semi-Rural                       | £3.46                                   | £3.76           | 8.7%              |
| Rural                            | £4.41                                   | £4.66           | 5.7%              |
| Extra Rural                      | £6.36                                   | £6.61           | 3.9%              |
| <b>Average</b>                   |   |                 | <b>9%</b>         |

The values are linked to population density at ward level and the likely travel time between calls. The highest travel payment is meant to encourage take up of new work in the more rural parts of the county where travel time between calls and impact of weather and isolated nature of the calls can be difficult to cover. It is noted that encouraging providers to take on new work in isolated rural areas is always challenging. The travel payment represents an element of staff time and a contribution towards the cost of using their vehicle. Providers have asked that the increase in travel payments is weighted slightly towards the lowest rate of travel.

Following requests in summer 2022 from Providers for assistance to help with meeting additional fuel costs the Council agreed to make an interim additional payment of 16 pence per travel visit. This additional payment was passed onto home care worker staff to assist with the increased petrol and diesel costs. This increase has been included in the travel rates.

Other cost increases.

Providers have also expressed concerns about other organisational costs, including but not limited to the increase in costs of Protective Personal Equipment (PPE) and the increase use of alcohol gels to meet infection prevention and control procedures.

Providers have also raised concerns about the national standard of living increases and the increases in gas and electricity prices which will impact on their organisational on-costs.



## Council Response

The Council acknowledges that PPE costs have increased substantially. However, providers can still obtain free PPE from the national PPE hub as stocks allow.

It is however accepted that not all of the PPE requirements of Home Care workers will be met by the national PPE Hub. It is therefore proposed to increase head office costs as shown in Appendix 1 by 9.2% in line with CPI for December 2022 to assist with additional costs being experienced by individual businesses.

### 4.4 Council Fee Proposal

The home care fee rate proposals for 2023-24 have taken account of the feedback received from Home Care providers about inflationary pressures as detailed earlier in this report. Appendix 2 details how these inflationary pressures impact on the standard cost headings used in Derbyshire County Council Home Care fee model to give a proposed inflationary uplift of 9.2% for 2023-24.

The proposed inflationary value of 9.2% on the hourly rate for the provision of Independent Sector Home Care is also used as a standard inflationary value for the other service types as shown in the table below.

| <b>Service Type</b>                    | <b>Rate 2022-23</b> | <b>Rate 2023-24</b> |
|--|---------------------|---------------------|
| Independent Sector Home Care Hours     | £17.04 per hour     | £18.60 per hour     |
| Non-Contracted Home Care Hours         | £16.08 per hour     | £17.52 per hour     |
| Independent Sector Sleep In (10pm-7am) | £88.74 per night    | £96.93 per night    |
| Independent Sector Live- In Carer      | £1,510.18 per week  | £1,649.16 per week  |
| In-House Home Care Hours               | £25.32 per hour     | £27.60 per hour     |
| In-House Extracare (Day)               | £16.68 per hour     | £18.24 per hour     |
| In-House Extracare (Night)             | £20.64 per hour     | £22.56 per hour     |
| Well Being                             | £15.19 per week     | £16.56 per week     |
| Shared Lives - Medium DRE              | £356.91 per week    | £391.07 per week    |

|                         |                  |                  |
|-------------------------|------------------|------------------|
| Shared Lives - High DRE | £365.79 per week | £391.07 per week |
| Shared Lives - Respite  | £54.80 per day   | £67.94 per day   |

## Staff recruitment and retention

Providers continue to report that recruitment and retention of Home Care workers is extremely difficult. They highlight concerns about how low wages in the sector coupled with low unemployment in parts of the county and poor status of a career in social care impact on their ability to recruit and retain sufficiently well-trained staff.

The workforce has a high level of turnover locally and although some of this movement may be between jobs in the sector, providers frequently lose staff in whom they have made a considerable investment in terms of training and development. This volatility in the workforce creates instability in the market with Providers having to hand back work to the Council when they lose staff.

The recruitment and retention of staff is particularly problematic in the more rural parts of the county. The impact of the difficulties in recruiting staff is that Adult Care is unable to arrange packages of care which can impact for instance on delaying hospital discharge.

In response to the workforce challenge Adult Social Care and the Care Association held a Recruitment and Retention workshop on 26 January 2023. Providers shared ideas and proposals on how they can be more effective and challenged the Council to offer more support and to increase fees further to enable them to be more competitive in an employment market that shows only 2.6% (in December 2022) unemployment rate. The national unemployment average at the same period was 3.8%.

Adult Social Care are working in partnership with other Local Authorities in the East Midlands to develop support and guidance for Providers looking to further expand their workforce via International Recruitment of home care workers. These planned support arrangements and toolkits for recruitment of overseas workers are a clear priority to safeguard workers and potentially grow the workforce. Few of the Providers commissioned to work on behalf of the Council have experience of this approach and are asking for support.

## Council's Direct Care Service

The Council's Direct Care Service continue to shift priority from provision of long term to short-term care. The Direct Care service will focus more on provision of short-term care with an emphasis on assisting people who may have been unwell to regain skills. Direct Care will no longer take on new long-term care packages unless there is no alternative provider available. Private Providers will have to increase their own workforce capacity to facilitate this shift to ensure this change in priority is a success.

#### Providers Response

Providers are encouraged by the opportunity to expand their service offer but have asked for it to be noted that they are restricted by difficulties with recruiting and retaining staff which limits their opportunities to grow their service. They believe that it would be beneficial if the Council could increase fees to enable them to pay staff more and to introduce some block contracts to give certainty of activity

#### 4.5 Impact of the Proposals on Independent Sector Specialist Fees

The proposals made in this report, and summarised in Appendix 2, focus on the basic fee rates for the provision of home care. The Council also funds specialist home care services for people who live in supported living care settings.

Supported living is an alternative to residential care, providing home care support and accommodation to people who are assessed as eligible for adult care services. In a supported living service, the housing provider and support provider are separate, and the client is a tenant with their accommodation costs being met by Housing Benefits. Accommodation is homely not institutional with clients contributing directly to daily tasks around their own home.

Specialist home care providers have reported that they are also experiencing unprecedented difficulties with recruitment and retention of staff with Providers having to cover staffing vacancies with Agency staffing which they report is costlier than fees received. It is proposed that an increase in payments of up to 9.0% can be agreed with providers that provide specialist home care provision in supported living care settings where they can evidence that their costs have increased.

### 5. Consultation

- 5.1 The Council is required as part of Care Act 2014 duties to undertake a fee setting exercise each year to ensure that fees allow for a sustainable market.

The local Home Care Provider Association have been requested to detail their member's concerns about current inflationary pressures so that the Council can ensure fee increases respond to these pressures. The outcome of these fee discussions will be further shared with Providers for their comments and are specifically addressed above

## **6. Alternative Options Considered**

- 6.1 Not to increase the fees from 1 April 2023. This would severely impact the market as providers would be unable to pay their staff the national minimum wage increase. Any failure to pay increased fees would destabilise what is already a fragile market that is struggling to recruit and retain staff. This would also further reduce Providers' ability to pick up new home care packages which would result in further delaying hospital discharges and failure to support people to live safely at home. As noted above it is a requirement of the Care Act 2014 that the Council undertakes a fee setting exercise each year to support a sustainable market. Failure to do so will leave the Council open to legal challenge.
- 6.2 Pay providers more than has been proposed in this paper. The Council believes that the fee modelling is fair and affordable, and the fees are comparable to those paid by other Local Authorities in the East Midlands.

## **7. Implications**

- 7.1 Appendix 1 sets out the relevant implications considered in the preparation of the report.

## **8. Background Papers**

- 8.1 Home Care Cost of Care Report

## **9. Appendices**

- 9.1 Appendix 1 – Implications
- 9.2 Appendix 2 – Fee Modelling

## **10. Recommendation(s)**

That Cabinet agrees to :

- a) make an inflationary increase of 9.2% for independent sector home care provision from 1 April 2023;
- b) to increase travel/visit rates by an average of 9% from 1 April 2023;
- c) to increase the fee rate for in-house home care and extra care provision from 1 April 2022 by 9.2%;
- d) to make an inflationary increase of up to 9.2% for specialist home care placements where evidence is provided of inflationary pressures.
- e) make a standard inflationary increase of 9% for day care provision for individual commissioned placements made with providers on the Council's Day Care Framework from 1 April 2023

## **11. Reasons for Recommendation(s)**

- 11.1 The recommendations to increase a range of fee levels by up to 9.2% will enable providers to pay their staff the equivalent of the National Minimum wage increase from the 1 April 2023.
- 11.2 The proposed increases are in line with the duty placed on the Council by the Care Act 2014 to promote a sustainable market.
- 11.3 Failure to increase fees in line with inflationary pressures will undermine the Council's ability to secure services for people with an assessed social care need.

## **12. Is it necessary to waive the call in period?**

- 12.1 No

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## **Implications**

### **Financial**

- 1.1 The proposed increase of 9.2% on home care fees and 9% on travel rates from 1 April 2023 will cost an estimated £5.9M. The proposed increase of up to 9.2% from 1 April 2023 on specialist homecare fees for Supported Living Schemes will cost an estimated £3.7M per annum. The proposed increase of 9.2% from 1 April 2023 on the Well Being Service will cost an estimated £0.019M per annum. For day care placements, the proposed uplift of 9% will cost an estimated £0.37M.

The estimated cost of this proposal to increase fee rates from 1 April 2023 is £10M per annum. This will be funded from the service pressure growth bid for Adult Care fee increases which was approved as part of the Revenue Budget Report 2023-24 by Full Council on 16 February 2023.

### **Legal**

- 2.1 section 5 of the Care Act 2014 places a duty on the Council to promote an efficient and effective market, with a view to ensuring that any person in its area wishing to access services in the market:
- a) has a variety of providers to choose from who (taken together) provide a variety of services;
  - b) has a variety of high-quality services to choose from; and
  - c) has sufficient information to make an informed decision about how to meet the needs in question.

In performing that duty, the Council must have regard to the importance of ensuring the sustainability of the market. Sufficient inquiries should be undertaken, to ensure the Council is properly informed of the local market conditions.

The Care and Support Statutory Guidance further details the duties on local authorities to facilitate markets that offer a diverse range of high-quality and appropriate services. The Council must assure itself that the fee levels do not compromise the provider's ability to (1) support and promote the wellbeing of people receiving care and support; (2) meet the statutory obligations to pay at least the national minimum wage; and (3) provide effective training and development of staff.

Case law is clear that the Council should take steps to ensure that fee levels reflect the actual cost of care. The rates should also take into account the legitimate current and future costs, and the potential for improved performance and most cost-effective ways of working. The Council is under a duty to promote diversity and quality in the market of care and support provision. As set out in this paper the Council will continue to work with providers to re-balance the fee model to increase the emphasis on meeting office costs prompted by the findings of the Cost of Care exercise.

## **Human Resources**

- 3.1 There are no human resources considerations associated with this report.

## **Information Technology**

- 4.1 There are no Information Technology considerations associated with this report.

## **Equalities Impact**

- 5.1 Providers are required to adhere to Derbyshire County Council's Equal Opportunities policies.

## **Corporate objectives and priorities for change**

- 6.1 This proposal will support local business to recruit and retain staff to provide support to people so that they may continue to live in their own homes to control their personal circumstances and aspirations.

## **Other (for example, Health and Safety, Environmental Sustainability, Property and Asset Management, Risk Management and Safeguarding)**

- 7.1 In preparing this report the relevance of the following factors has been considered: human resources, health, environmental, transport, and crime and disorder considerations.
- 7.2 These services are reliant on Home Care staff travelling between client's homes. The primary mode of transport is the use of cars to enable staff to efficiently move between calls during all sorts of weather and during antisocial hours. Some of these calls are also undertaken across rural locations of the County. Calls are often time critical and the Council must cover the cost of the transport and the pay of the staff member as they travel between calls. The cars used are often owned

by the care worker and they are likely to be older models that will be higher emitters of carbon as the use of alternatives are currently not covered by the fees paid by the Council.

## Appendix 2

### Proposed Home Care Fee Rate for 2023-24 Fee Model

|                                      | 2022-23      | Proposed     |            |
|--------------------------------------|--------------|--------------|------------|
|                                      | £            | 2023-24      | Increase   |
|                                      |              | £            | %          |
| Wages                                | 10.82        | 11.87        | 9.7        |
| Employers NI                         | 0.65         | 0.71         | 9.6        |
| Pension                              | 0.33         | 0.36         | 7.9        |
| <b>Hourly Cost</b>                   | <b>11.80</b> | <b>12.94</b> | <b>9.6</b> |
| Holiday Pay 4 weeks                  | 0.90         | 0.99         | 9.6        |
| Sickness pay assume 2 weeks per year | 0.45         | 0.49         | 9.6        |
| 5 training days per year             | 0.23         | 0.25         | 9.6        |
| Bank holidays 8 days per year        | 0.36         | 0.39         | 9.6        |
| <b>Net Hourly Rate</b>               | <b>13.74</b> | <b>15.06</b> | <b>9.6</b> |
| Head office and profit               | 3.31         | 3.61         | 9.1        |
| <b>Total Hourly Rate</b>             | <b>17.05</b> | <b>18.67</b> | <b>9.5</b> |
| Rounded Rate Divisible by 12         | <b>17.04</b> | <b>18.60</b> | <b>9.2</b> |

Assumptions used

Staffing costs were inflated in line with National Minimum wage Increases



Head Office Costs inflated in line with CPI Inflationary rate for December 2022

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